

study as soon as possible but in no case later than 15 calendar days after becoming aware of its occurrence. Each report must be submitted on FDA Form 3500A or in an electronic format that FDA can process, review, and archive. FDA will periodically issue guidance on how to provide the electronic submission (e.g., method of transmission, media, file formats, preparation and organization of files). Each report must bear prominent identification of its contents, i.e., "bioavailability/bioequivalence safety report." The person conducting the study, including any contract research organization, must also notify FDA of any fatal or life-threatening adverse event from the study as soon as possible but in no case later than 7 calendar days after becoming aware of its occurrence. Each notification under this paragraph must be submitted to the Director, Office of Generic Drugs in the Center for Drug Evaluation and Research at FDA. Relevant followup information to a bioavailability/bioequivalence safety report must be submitted as soon as the information is available and must be identified as such, i.e., "Followup bioavailability/bioequivalence safety report." Upon request from FDA, the person conducting the study, including any contract research organization, must submit to FDA any additional data or information that the agency deems necessary, as soon as possible, but in no case later than 15 calendar days after receiving the request.

[57 FR 18000, Apr. 28, 1992, as amended at 58 FR 25927, Apr. 28, 1993; 67 FR 77674, Dec. 19, 2002; 75 FR 59963, Sept. 29, 2010]

**§ 320.32 Procedures for establishing or amending a bioequivalence requirement.**

(a) The Food and Drug Administration, on its own initiative or in response to a petition by an interested person, may propose and promulgate a regulation to establish a bioequivalence requirement for a product not subject to section 505(j) of the act if it finds there is well-documented evidence that specific pharmaceutical equivalents or pharmaceutical alternatives intended to be used inter-

changeably for the same therapeutic effect:

(1) Are not bioequivalent drug products; or

(2) May not be bioequivalent drug products based on the criteria set forth in § 320.33; or

(3) May not be bioequivalent drug products because they are members of a class of drug products that have close structural similarity and similar physicochemical or pharmacokinetic properties to other drug products in the same class that FDA finds are not bioequivalent drug products.

(b) FDA shall include in a proposed rule to establish a bioequivalence requirement the evidence and criteria set forth in § 320.33 that are to be considered in determining whether to issue the proposal. If the rulemaking is proposed in response to a petition, FDA shall include in the proposal a summary and analysis of the relevant information that was submitted in the petition as well as other available information to support the establishment of a bioequivalence requirement.

(c) FDA, on its own initiative or in response to a petition by an interested person, may propose and promulgate an amendment to a bioequivalence requirement established under this subpart.

[57 FR 18000, Apr. 28, 1992]

**§ 320.33 Criteria and evidence to assess actual or potential bioequivalence problems.**

The Commissioner of Food and Drugs shall consider the following factors, when supported by well-documented evidence, to identify specific pharmaceutical equivalents and pharmaceutical alternatives that are not or may not be bioequivalent drug products.

(a) Evidence from well-controlled clinical trials or controlled observations in patients that such drug products do not give comparable therapeutic effects.

(b) Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products.

(c) Evidence that the drug products exhibit a narrow therapeutic ratio,